

Remarks

This is in response to the non-final Office Action mailed on August 18, 2005. Claim 29 is amended, support for claim 29 being found, for example, at Figure 2 of the application. Claims 23-32 remain pending. Reconsideration and allowance are respectfully requested for the following reasons.

Double Patenting

Claims 28-32 stand rejected under the judicially created doctrine of double patenting over claims 1-20 of U.S. Patent No. 6,688,302. This rejection is respectfully traversed, and the correctness of the rejection is not conceded. Reconsideration is requested for the following reasons.

Included herewith is a Terminal Disclaimer to address this rejection. Reconsideration and allowance are respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claim 32 stands rejected under 35 U.S.C § 102(b) as being anticipated by U.S. Patent No. 163,678 to Merrill. This rejection is respectfully traversed, and reconsideration is requested for the following reasons.

Claim 32 recites a method of adding fuel to a stove including, among other limitations, opening an access door positioned at a top wall of the stove.

Merrill discloses a fireplace including a doorway O positioned at a front plate B of the fireplace. See, for example, Figures 1-3 of Merrill. Merrill fails to disclose or suggest a door positioned at a top plate E of the fireplace.

Merrill therefore fails to disclose or suggest a method including opening an access door positioned in a top wall of a stove, as recited by claim 32. Reconsideration and allowance are respectfully requested.

Claim 32 stands rejected under Section 102(b) as being anticipated by U.S. Patent No. 2,461,068 to Lockwood. This rejection is respectfully traversed, and reconsideration is requested for the following reasons.

Lockwood discloses a stove including a fuel door 15 positioned at a side of the stove. See Figure 1 of Lockwood. Lockwood fails to disclose or suggest a method including opening an access door positioned at a top wall of a stove, as recited by claim 32. Reconsideration and allowance are respectfully requested.

Claim 29 is rejected under Section 102(b) as being anticipated by U.S. 2,196,467 to Masonick. This rejection is respectfully traversed, and the correctness of the rejection is not conceded. Reconsideration is respectfully requested for the following reasons.

Claim 29 is directed to a stove including, among other limitations, a baffle plate. Claim 29 recites that the baffle plate is moveable from a substantially horizontal closed configuration to an open configuration.

Masonick discloses a stove including a door or choke plate 46 that is movable between a vertical closed position (see Figure 3) and an horizontal open position (see Figure 4). Masonick fails to disclose or suggest a baffle plate including a substantially horizontal closed configuration.

Masonick therefore fails to disclose or suggest a stove including a baffle plate that it movable from a substantially horizontal closed configuration to an open configuration, as recited by claim 29. Reconsideration and allowance are respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 29, 30, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Merrill in view of U.S. Patent No. 4,856,491 to Ferguson et al. This rejection is respectfully traversed, and reconsideration is respectfully requested for the following reasons.

One skilled in the art would not be motivated to modify a first prior art reference in view of a second prior art reference if the proposed modification would render the first prior art reference unsatisfactory for its intended purpose. MPEP 2143.01.

It is respectfully suggested that there is no motivation to combined Ferguson with Merrill because such a combination would result in the fireplace disclosed by Merrill being unsatisfactory for its intended purpose. Specifically, if the fireplace disclosed by Merrill were to be modified to include an opening in top plate E, such a modification would render the fireplace inoperable because exhaust gases generated in the fireplace would exit the opening in the top plate E when an access door for such an opening is open, rather than the smoke flue G. This would render the fireplace disclosed by Merrill inoperable, since exhaust gases would be exhausted through the opening in the top plate E and into the surrounding room, rather than out the smoke flue G.

For this reason, it is therefore respectfully suggested that one skilled in the art would not be motivated to modify Merrill to include an opening in the top plate E. Reconsideration and allowance of claims 29, 30, and 32 are respectfully requested.

Allowable Subject Matter

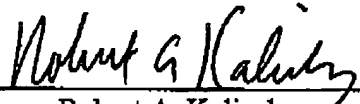
Claims 23-28 are allowed and claim 31 is noted as being allowable. Applicants appreciate the Examiner's assistance in identifying allowable subject matter. All claims are in condition for allowance.

Conclusion

Favorable reconsideration in the form of a Notice of Allowance is respectfully requested.
Please contact the undersigned attorney with any questions regarding this application.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

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Name: Robert A. Kalinsky
Reg. No.: 50,471
RAK:pll

Attachment: Appendix including Terminal Disclaimer

APPENDIX

Attached hereto is a Terminal Disclaimer.